

**Glenn Research Center  
Leave Program Fact Sheet**

**FAMILY AND MEDICAL LEAVE ACT (FMLA)**

**Entitlement**

Under the Family and Medical Leave Act of 1993 and implementing regulations, eligible Federal employees are entitled to a total of 12 work weeks of unpaid leave (Leave Without Pay – LWOP) during any 12-month period for:

- the birth of a son or daughter of the employee and the care of such son or daughter;
- the placement of a son or daughter with the employee for adoption or foster care;
- the care of a spouse, son or daughter, or parent of the employee who has a serious health condition or;
- a serious health condition of the employee that makes the employee unable to perform the essential functions of his or her position.

*Serious Health Condition* is defined as an illness, injury, impairment or physical/mental condition that involves inpatient care or continuing treatment by a health care provider. It includes such conditions as cancer, heart attacks, strokes, severe injuries, Alzheimer's disease, pregnancy, and childbirth (including recovery time). It is not intended to cover short-term conditions for which treatment and recovery are very brief. The common cold, flu, earaches, upset stomach, headaches (other than migraines), routine dental or orthodontia problems, etc. are not serious health conditions unless complications arise.

FMLA Definitions are found at: <http://www.opm.gov/oca/leave/HTML/fmlaregs.htm>

**Eligibility**

Employees who have 12 months of Federal service (not required to be 12 recent or consecutive months) are eligible for FMLA leave.

FMLA does not apply to:

- employees serving under a temporary appointment with a time limitation of 1 year or less; or
- an intermittent employee

**Job Benefits and Protections**

Employees returning from FMLA leave are entitled to be placed in the same position held when the leave started or to an equivalent position with equivalent benefits, pay, status and other terms and conditions of employment.

An employee who takes FMLA leave is entitled to maintain health benefits coverage. An employee on unpaid FMLA leave may pay the employee share of the premiums on a current basis or pay upon return to work.

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**Provisions of FMLA**

***12-month period***

- The 12-month period for which 12-weeks of FMLA may be taken for a medical need, begins on the date an employee first takes leave for a family or medical need covered by the FMLA.
- An additional 12-week entitlement may not begin until the previous 12-month period ends and an event or situation occurs that entitles the employee to another period of FMLA leave (including a continuation of a previous event or situation.)
- The entitlement for leave related to the birth/adoption of a child expires at the end of the 12-month period beginning on the date of the birth or placement. If FMLA leave began before the birth/placement, the 12-month period begins on the date the leave was first used.

***Intermittent or reduced leave schedule***

- FMLA leave may be taken intermittently or on a reduce leave schedule, when medically necessary, because of an employee's own serious health condition or to care for a child, spouse or parent with a serious health condition.
- If leave is taken intermittently/reduced leave schedule based on planned medical treatment or recovery from a serious health condition, the Center may place an employee temporarily in an available alternative position for which he/she is qualified and can better accommodate the leave schedule.
- FMLA leave may be taken intermittently for the birth or adoption of a child only if the employee and the Center agree.

***Substitution of Paid Leave***

- Eligible Federal employees may substitute available accrued, accumulated or advanced annual and/or sick leave or that made available under the Leave Transfer Program for unpaid FMLA leave. Leave procedures applicable to these other programs must also be followed.
- The amount of leave that can be used to care for a family member is limited. These limitations are applicable to leave taken under FMLA.
- The Center may not require an employee to substitute paid leave for the unpaid leave.

***Retroactively Invoking FMLA Entitlement***

- An employee may not retroactively invoke the entitlement to family/medical leave unless he/she or a personal representative is physically/mentally incapable of invoking the entitlement during the entire period of absence and he/she can provide medical evidence of this incapacitation.
- In such cases, employees must invoke the entitlement within 2 workdays of returning to work.

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***Medical Certification***

- Medical certification must be submitted for FMLA requests pertaining to serious health conditions in accordance with 5 CFR 630.1207
- The Department of Labor has established a form that may be used to obtain medical certification. This form is not required but can be accessed at, <http://www.dol.gov/esa/regs/compliance/whd/fmla/wh380.pdf>

If this form is not used, all the information outlined in 5 CFR 630.1207 must be included in any medical certification submitted.

- Employees are encouraged to submit the medical certification with his/her request for FMLA.
- The medical certification must be submitted within 15 calendar days from the date the Center requests it (normally that will be the date the FMLA leave is requested in writing) or, if that is not practical given the circumstances, no later than 30 calendar days from the date the Center requests it.
- The Center may require a second (and if necessary) a third opinion (at the Center's expense) if the validity of the certification is in question.

***Other Issues***

- If the employee does not comply with the notification requirements and does not provide medical certification, as required, the employee is not entitled to any FMLA leave nor any of the employment benefit protections.
- Employees may use other leave in addition to the 12-week entitlement under FMLA for FMLA purposes. Such requests must be submitted in accordance with established procedures and will be considered as any other leave request.

**Requesting FMLA Leave**

***Request***

An e-mail to your immediate supervisor should be used to request FMLA leave. The e-mail should indicate:

- The type of leave and/or combination of leave types to be used and the dates the leave will be used
- The circumstances of the request.
- Any medical documentation should be forwarded to the supervisor if it is available at the time of the request.
- The supervisor should approve the leave via e-mail.

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**Requesting FMLA Leave (Continued)**

**Other Documents**

- An SF-52, Request for Personnel Action, must also be submitted to the Office of Human Resources for FMLA that includes LWOP for more than 30 cumulative calendar days.
- If an employee is requesting paid leave available under the Leave Transfer Program and/or Advanced Sick Leave Programs be substituted for FMLA unpaid leave, the procedures established for those programs must also be followed.

***Return to Work*** - Employees on approved FMLA leave must obtain a return to work certificate if:

- they invoked FMLA leave for a personal serious health condition or
- they were caring for another with a contagious illness.

***Responsibilities***

**Employees** are responsible for:

- Using only the amount of family and medical leave that is necessary to manage the circumstances that prompted the need for the leave;
- Providing advance notice of the need for FMLA leave;
- Invoking entitlement to FMLA leave by requesting it in accordance with established procedures;
- Submitting medical certification with your request for FMLA leave or when specifically requested by the Center; and
- Scheduling medical treatment so as not to unduly disrupt Center operations.

**Center** - Authority to approve FMLA leave has been delegated down to the first line supervisory level. As such, supervisors are responsible for:

- Approving FMLA leave requests for which an employee is entitled, in accordance with established procedures;
- Requesting medical certification be submitted if it forwarded to you with the written request;
- Approving FMLA provisionally until medical certification is received;
- Requiring, for justifiable cause, an employee to reschedule medical treatment (subject to approval of the health care provider);
- Charging an employee Absence without leave (AWOL) or allowing an employee to request LWOP, Annual Leave or Sick leave, as appropriate, if the employee fails to provide medical certification within the established timeframes;
- With the assistance of the Office of Human Resources, require the employee to obtain the opinion of a second (and if necessary third) health care provider; and
- Require medical re-certifications in accordance with 5 CFR 630.1207.

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**Office of Human Resources and Workforce Planning**

Questions regarding FMLA leave should be directed to the Office of Human Resources and Workforce Planning at 3-2506 or 3-2507.

**References:**

5 USC Chapter 63

5 CFR 630, Subpart L (630.1202 – 1211)

[http://www.access.gpo.gov/nara/cfr/waisidx\\_03/5cfr630\\_03.html](http://www.access.gpo.gov/nara/cfr/waisidx_03/5cfr630_03.html)

Federal Register on final rule change to Family and Medical Leave

<http://www.opm.gov/oca/leave/HTML/FMLACHNG.PDF>

NPG 3600.1, Attendance and Leave

GLPG 3630.1, Absence and Leave

OHR-13, Delegations of Authority

Office of Human Resources Web site

<http://www.grc.nasa.gov/WWW/OHR/leave.htm>

Office of Personnel Management Leave Administration Web Site

<http://www.opm.gov/oca/leave/index.htm>

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